

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: July 12, 2004
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #9 – LAFCO #2952 – City of Hesperia Reorganization #2003-01 (See Full Title Below)

FULL TITLE:

LAFCO 2952 -- City of Hesperia Reorganization No. 2003-01 Including Annexations to the City of Hesperia, Hesperia Water District, Hesperia Fire Protection District, and Hesperia Recreation and Park District, and Detachment from County Service Area 70 Improvement Zone J (Cataba Area)

INITIATED BY:

City of Hesperia Council Resolution and Resolutions of the Hesperia Fire Protection District and Hesperia Water District

RECOMMENDATION:

Staff is recommending that the Commission:

1. Take the following actions with respect to the environmental review for LAFCO 2952:
 - a. Certify that the Final Environmental Impact Report (EIR) prepared for the Oak Hills Community Plan, the Negative Declaration prepared for the Pre-zoning of the Oak Hills Community Plan area by the City of Hesperia and the Addendum prepared by the Commission's Environmental Consultant have been independently reviewed and considered by the Commission;

- b. Determine that the final EIR and the Negative Declaration prepared by the City of Hesperia, and the Addendum are adequate for the Commission's use to make its CEQA environmental determination as a Responsible Agency related to LAFCO #2952;
 - c. Determine that the Commission does not intend to adopt alternatives for this project, other than those considered by the City, and that mitigation measures included in the City's environmental documents are the responsibility of the City, subsidiary districts, or others, not the Commission;
 - d. Adopt the Addendum and Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, as the CEQA environmental documentation for review of LAFCO #2952 as presented to the Commission by memorandum dated July 12, 2004; and,
 - e. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days.
2. Approve LAFCO 2952 – Reorganization No. 2003-01 including Annexations to the City of Hesperia, and related agencies, et al., subject to the following conditions:
- a. Initiation of the protest proceedings for this Reorganization shall be held in abeyance to allow for the completion of negotiations between the Hesperia Water District and the County of San Bernardino, on behalf of County Service Area 70 Improvement Zone J, related to the transfer of responsibility for the water facilities within the area. These proceedings shall be held in abeyance for a period not to exceed six months. Failure by the parties to submit a signed agreement within the six month period would require the termination of the proposal. Protest proceedings shall commence upon submission of a signed agreement between the Hesperia Water District and County Service Area 70 Improvement Zone J along with all applicable attachments.
 - b. The continued overlay of County Service Area 60 (Apple Valley Airport) in accordance with the provisions of Government Code Section 56375(n) and make appropriate findings pursuant to Government Code Section 29210.42.
3. Adopt LAFCO Resolution No. 2830 setting forth the Commission's terms, conditions, findings, and determinations.

BACKGROUND INFORMATION:

LAFCO 2952 is a proposal to annex approximately 893 acres to the City of Hesperia and its community of special districts, initiated by resolution of the City Council of Hesperia. The reorganization as presented includes separate areas identified as follows:

1. The primary area (Annexations to City of Hesperia, Hesperia Fire Protection District, Hesperia Water District, and Detachment from CSA 70 Improvement Zone J) comprises approximately 893 +/- acres and is generally bordered by the centerline of the California Aqueduct on the north (existing City of Victorville et al. boundary), Cataba Road (existing City of Hesperia boundary) on the east, West Main Street/Phelan Road (existing City of Hesperia boundary) on the south, and the Los Angeles Bureau of Power and Lights easement on the west. The area is within the northwestern sphere of influence assigned for the City and related special districts.
2. The separately defined area proposed for annexation to the Hesperia Recreation and Park District comprises 464 +/- acres (roughly one-half the area proposed for inclusion within the City et al.) and is generally bordered by the California Aqueduct on the north (existing Victorville Recreation and Park District boundary), Highway 395 (existing District boundary) on the east, West Main Street/Phelan Road (existing District boundary) on the south, and the Los Angeles Bureau of Power and Lights easement on the west. The area is within the northwestern sphere of influence assigned the District

Existing land uses within the area are essentially vacant, with some scattered residential development comprising the mobilehome and recreational vehicle park and some minor commercial uses. Within the 893 acres there have been 154 registered voters identified, an estimated 10 homes, 74 mobilehome spaces, and 179 recreational vehicle spaces. The City's application estimates a population of 550 persons within the larger reorganization area.

Existing land uses surrounding the reorganization proposal include to the north vacant lands (within the City of Victorville and its related special districts), to the east is a hotel, restaurant, gas stations and vacant lands (within the City of Hesperia), to the south are scattered rural-residential homes and vacant land (within the City of Hesperia and its sphere of influence) and to the west (within the unincorporated City of Hesperia sphere of influence) are scattered residential uses and vacant lands.

LAND USE:

The City of Hesperia, and the County of San Bernardino have both processed the Oak Hills Community Plan addressing the land uses for this entire community. Processing by the City of Hesperia has also included the pre-zoning of the entire Community Plan area. In August 2002, the City Council of the City of Hesperia adopted the Community Plan for the Oak Hills community, following several years of consideration by the Community Advisory Committee made up of members of the unincorporated Oak Hills community and City representatives. This Community Plan sets forth the land uses for the area and the goals and policies for the area as defined by the City of Hesperia. The County of San Bernardino has also reviewed and adopted these land use designations within its Development Code. Thus, the land use anticipated for this area has been identified for the area regardless of jurisdiction. A copy of the adopted Land Use Map is included as Attachment #3.

The pre-zoning of the area was completed by the City in December 2003 and assigned City land use designations to the entire area of the Community Plan. Land use designations within the reorganization area include the following:

- a. The predominant land use designation within the area is Industrial/Commercial (CS)(County designation OH/CS Service Commercial) that include distribution and light manufacturing uses. This designation is assigned approximately 610 acres within the reorganization area.
- b. Medium High Residential (MHR) (County designation OH/4M-RM) allowing 4.0 to 10.0 dwelling units to the acre. The intent of this land use is to provide areas for attached, detached and/or mixed residential development with a wide range of densities and housing types. This land use designation covers the area of the existing and proposed expansion of the mobilehome Recreation and Parkal vehicle park within the reorganization area. It is estimated that this land use designation is applied to approximately 70 acres within the area.
- c. Rural Estate (RE) (County designation -- OH/RL Rural Living) allowing 0.4 dwelling unit/per acre (2 ½ acre parcel sizes). The intent of this land use designation is to identify areas where rural residences may be established with related animal uses and to prevent the inappropriate demand for urban types of services. This land use designation is applied to a small area at the northwestern most intersection of the California Aqueduct and the utility powerline easement.
- d. Open Space (OS) (County designation -- OH/FW Floodway) – The intent of this land use designation is to identify and preserve areas for flood flows and to protect these floodways from the encroachment of incompatible land

uses. This land use designation also allows for the provision of recreational trails, passive open space and special preserve areas. This designation has been applied to approximately 100 acres within the area with its predominant feature the Oro Grande Wash.

- e. Commercial (C) (County designation – OH/CG General Commercial) – The intent of this land use designation is to provide areas for stores, offices, service establishment and others scaled to meet the neighborhood and community needs. This land use designation is applied to approximately 40 acres within the reorganization area.
- f. Public (P) (County designation – OH/IN Institutional) – to identify existing lands and structures committed to public facilities and public agency use along with providing areas for future development of public facilities. This land use designation is applied to the portion of the California Aqueduct included within the proposed reorganization.

At the present time, there is an application being processed by the County Land Use Services Department to expand the mobilehome park within the reorganization area. The application does not include information regarding any other development plans within the area. No specific land use issues have been identified by staff as the land use designations are consistent with the City and County General Plans for the area through their concurrent review and adoption of the Oak Hills Community Plan.

SERVICE ISSUES:

Existing service needs within the area are minimal since it is primarily vacant land, except for the existing mobilehome park. The County, through its system of county service areas and improvement zones, provides existing services, such as water service, fire protection, etc. However, the Community Plan anticipates land uses within the reorganization area at higher levels and intensities of development than currently exist. The area included within this application comprises the area anticipated to primarily include commercial and industrial uses according to the land uses identified within the Community Plan.

The City of Hesperia has submitted a plan for the extension of municipal services, as required by law, for itself and its subsidiary districts, the Hesperia Fire Protection District and the Hesperia Water District. The independent Hesperia Recreation and Park District has also submitted a Plan for Service. The Commission has been provided copies of these documents as Attachment #2 to this report.

The City of Hesperia has indicated for itself and its subsidiary districts – water and fire – that a funding package will need to be developed to address construction of

infrastructure, while the maintenance and operation costs for these services will be funded by property tax receipts (fire and some city services) and user charges (water and sewer service). The independent Hesperia Recreation and Park District has indicated that it will utilize its existing financing structures to provide its services -- park and recreation and streetlighting. The Plans for Service presented indicates that existing service levels, at a minimum, will be maintained and will be enhanced as development takes place. The major elements of the Plans for Service are summarized as follows:

- Water Service (provided by the City subsidiary Hesperia Water District) –At the present time there are limited water facilities within the area proposed for reorganization. The development of the water and sewer infrastructure for this area, as anticipated through the Community Plan land uses, has been addressed in the Environmental Impact Report and the Plan for Service submitted for this application, all of which have been provided to the Commission for its information. The portion of the Plan for Service that addresses the provision of domestic water service notes that the existing CSA 70 Zone J facilities are provided through connection to the transmission pipeline located in Highway 395. The extension of service by the Hesperia Water District would require separation of this portion of the Zone J system, anticipated to occur in Smoke Tree Road, along with the development of a pressure reducing station connecting Zone 2 to Zone 1 of the Zone J system. The County Special Districts staff has provided an outline of its concerns regarding the detachment of CSA 70 Zone J and the impacts to its system (included as Attachment #5).

Staffs of the Hesperia Water District and County Special Districts have been working toward agreements that would allow for disconnection of certain portions of the CSA 70 Zone J system and transfer of those to the Hesperia Water District along with a definition of the facilities to maintain the integrity of the CSA 70 Zone J system. The negotiations to set forth the terms of the transfer of obligations for service, the necessity for maintenance of the interconnections between the east and west Zone J facilities, and to set forth certain facility requirements to maintain the Zone J system are currently being finalized. LAFCO staff required that this agreement be set forth in principle before consideration of LAFCO 2952 could be presented to the Commission and the City and County have indicated that had been achieved. A copy of the draft agreement is included as a part of Attachment #4.

Staff has also indicated to representatives of the Hesperia Water District and County Special Districts Department that its recommendation would include a condition of approval to hold further protest proceedings on the reorganization in abeyance, for a period not to exceed six months, for completion of the contract process. Failure by the parties to submit a

signed agreement within the six month period would require the termination of the proposal for failure to comply with the conditions on the reorganization. City and County staff have outlined a tentative schedule for final consideration of these agreements that should culminate during the month of September by action of the County Board of Supervisors.

- Sewer Service (provided by the City Subsidiary Hesperia Water District) -- There are no sewer facilities within the area proposed for reorganization. The Plan notes that the existing mobile home park uses an on-site package treatment plant, but that future expansion would require sewer connection, a service only available from the Hesperia Water District. The Plan for Service identifies that the Water District's existing facilities are located in Cataba Road and extend in Main Street to Mesa Linda Avenue (the southern boundary of the proposed reorganization). The Hesperia Water District is a part of the Victor Valley Regional Wastewater Reclamation Authority (VWVRA) which was formed in 1978 to manage the regional wastewater treatment plant. Wastewater generated within the reorganization area would be transported to the regional facility.

Extension of sewer facilities in the future would be funded by developers of the area and could be accomplished through the creation of Mello Roos Community Facilities Districts or other alternative funding mechanisms. The ongoing maintenance and operation of these facilities would be fully funded through user charges. The Plan notes that the development of the smaller commercial and industrial uses would not be impacted by the need for sewer extension as the large parcels could absorb the effluent produced; however, this would need to be verified through percolation tests.

- Fire Protection (provided by the City subsidiary Hesperia Fire Protection District by contract with the County of San Bernardino) -- The County Fire District has submitted concerns related to detachment of this area from CSA 38 and the further erosion of funding available to CSAs 38 and 70 to perform its fire function (copy of information included as part of Attachment #6). This concern has been reviewed and the Hesperia Fire Protection District has indicated that an agreement signed between the County and Fire Protection District to specify continuing service relationships in the Summit Valley, Oak Hills, and Spring Valley Lake addressed this issue. However, during the processing of this application, the Hesperia Fire Protection District and County Service Areas 38 and 70 negotiated a contract for the County to provide fire protection services for the territory of the Hesperia FPD.

The entire reorganization area is designated as "State Responsibility Area" for wildland fire protection purposes (map included as part of Attachment #6) by the California Department of Forestry. Upon annexation, this

designation will be removed and the financial obligation for this type of fire protection will be transferred to the City. The supplemental information submitted for the Plan for Service indicates that upon annexation, the City and Fire District would contract with the California Department of Forestry for wildland fire suppression services. The current rates, at the close of FY 2003-04, for this service are \$7.71 per acre, plus a 10.18% administrative fee; however, this fee structure is anticipated to change for the upcoming year. Using current information, the cost is calculated to be \$7,585.93 annually. The Hesperia Fire Protection District will receive \$15,580 in property tax revenues through this annexation. If such a contract were to be considered, it would leave roughly one-half of the transferred property revenue to provide the actual services within the area.

- The independent Hesperia Recreation and Park District has indicated that it provides recreation program, park facilities and maintenance, streetlighting and landscape maintenance services. The District has identified its existing financing mechanisms as:
 - Parks, open space, trails, streetlights and other required infrastructure will be provided by developers using agreed to financing programs, which may include impact fees, bonds, developer financing, and/or assessment districts.
 - Continued operations and maintenance are funded by a combination of ad valorem property taxes, grant funds, and annexation into the District's existing parks, landscape and lighting districts.
- Law enforcement responsibilities within the City of Hesperia are provided by the County Sheriff's Department by contract. The approval of this reorganization will shift responsibility to the City for funding this service.

The City of Hesperia, for itself and its subsidiary districts, and the independent Hesperia Recreation and Park District, have shown that the level of service to be provided within this area upon annexation maintains, and will enhance, the level of service currently provided by the County.

ENVIRONMENTAL ISSUES:

The environmental review response from Tom Dodson and Associates has been provided by separate memorandum dated July 12, 2004 for Commission consideration and includes Addendum No. 1 to the Final EIR and the required Statement of Overriding Considerations regarding the environmental effects from approval of this reorganization. It is recommended the Commission incorporate the following actions if it wishes to approve this proposal.

1. Certify that the final environmental impact report (EIR) prepared for the Oak Hills Community Plan, the Negative Declaration prepared for the Pre-zoning of the Oak Hills Community Plan area by the City of Hesperia and the Addendum prepared by the Commission's Environmental Consultant have been independently reviewed and considered by the Commission;
2. Determine that the final EIR and the Negative Declaration prepared by the City of Hesperia, and the Addendum are adequate for the Commission's use to make its CEQA environmental determination as a Responsible Agency related to LAFCO #2952;
3. Determine that the Commission does not intend to adopt alternatives for this project, other than those considered by the City, and that mitigation measures included in the City's environmental documents are the responsibility of the City, subsidiary districts, or others, not the Commission;
4. Adopt the Addendum and Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, as the CEQA environmental documentation for review of LAFCO #2952 as presented to the Commission by memorandum dated July 12, 2004; and,
5. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668:

1. The Registrar of Voters Office has determined that the study area is legally inhabited, containing 154 registered voters, as of June 18, 2004.
2. The study area is within the sphere of influence assigned for the City of Hesperia and its community of special districts.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements within the study area is \$10,526,946 (\$6,693,196 land; \$3,833,750 improvements).
4. Legal advertisement of the Commission's consideration has been provided through publication in *The Hesperia Resorter*, *The Daily Press* and *The Sun*, newspapers of general circulation within the study area. Individual notice

has been provided to those individuals and agencies having requested such notification.

5. LAFCO staff has provided an individual notice to the landowners and registered voters within the reorganization area (totaling 231 notices), and to landowners and voters within 1350 feet surrounding the study area (totaling 222 notices) in accordance with state law and adopted Commission policies. To date, no written comments or protest have been received to the notices provided regarding consideration of this proposal.
6. The City of Hesperia has processed a Community Plan and Pre-zoning of the reorganization area and the Oak Hills community in its entirety. These land use designations and the City's processing are more fully discussed in the narrative to this report. The designations assigned include commercial, industrial and rural residential within the area. These land uses conform to the General Plan of the City of Hesperia, as modified. Pursuant to the provisions of Government Code Section 56375(e) these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
7. The Commission's environmental consultant, Tom Dodson and Associates, has reviewed the City of Hesperia's Initial Study and Negative Declaration (for the pre-zoning of the Oak Hills Community Plan area) and the Environmental Impact Report prepared for the Oak Hills Community Plan. Mr. Dodson has determined that these documents taken together are adequate for the Commission's review of the proposed reorganization as a responsible agency. Copies of the City's environmental documents were presented to the Commission at the June 16th hearing.

The necessary actions to be taken by the Commission, as a responsible agency, include the following:

- a. Certify that the final environmental impact report (EIR) prepared for the Oak Hills Community Plan, the Negative Declaration prepared for the Pre-zoning of the Oak Hills Community Plan area by the City of Hesperia and the Addendum prepared by the Commission's Environmental Consultant have been independently reviewed and considered by the Commission;
- b. Determine that the Final EIR and the Negative Declaration prepared by the City of Hesperia, and the Addendum are adequate for the Commission's use to make its CEQA environmental determination as a Responsible Agency related to LAFCO #2952;

- c. Determine that the Commission does not intend to adopt alternatives for this project, other than those considered by the City, and that mitigation measures included in the City's environmental documents are the responsibility of the City, subsidiary districts, or others, not the Commission;
 - d. Adopt the Addendum and Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, as the CEQA environmental documentation for review of LAFCO #2952 as presented to the Commission by memorandum dated July 12, 2004; and,
 - e. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.
8. Upon annexation, the City and affected agencies will extend their services as required by the progression of development. The financial information portion of the Plans for Service indicates that supplemental funding through the existing Community Facilities District 94-01 and the possible formation of a Community Facilities District will be used within this area, or other similar financing issue, may be required for this area. Through these mechanisms, the Plans state that the level of service will be adequate for the existing development and that anticipated for undeveloped lands. The Plans identify that the revenues to be provided through the transfer of property tax revenues and existing and potential financing mechanisms are anticipated to be sufficient to provide for the infrastructure and ongoing maintenance and operation of the services from the City of Hesperia, Hesperia Water District, Hesperia Fire Protection District and Hesperia Recreation and Park District.
9. The area in question is presently served by the following public agencies:
- County of San Bernardino
 - County Service Area 38 (fire protection)
 - County Service Area 60 (Apple Valley Airport)
 - County Service Area 70 and its Improvement Zone J (domestic water purveyor)
 - Mojave Water Agency and its Improvement District No. 1
 - Mojave Desert Resource Conservation District

County Service Area 38, County Service Area 70 and County Service Area 70 Improvement Zone J will be detached upon successful completion of this annexation. Pursuant to the provisions of Government Code Section 57025, individual notice of the protest proceeding shall be provided to the landowners due to the detachment of the improvement zone.

As a condition of approval, County Service Area 60 will be proposed to be retained overlaying the area. The continued overlay of CSA 60 is appropriate based on the regional nature of its Apple Valley Airport function. This overlay is authorized by Government Code Section 56375(n) if the Commission finds that the continued overlay is justified to help preserve the health, welfare, and safety of present and future inhabitants of the study area and the region and that it will not affect the ability of the city to provide any service.

None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries.

10. The annexation proposal complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
11. The City of Hesperia and Hesperia Recreation and Park District have submitted Plans for Service, as required by law and Commission policy (included as a part of Attachment 2). The City's Plan for Service (which addresses service provision by the City, and its subsidiary Fire and Water Districts) outlines that the agencies can provide their services to the area based upon the land use plans provided within the Oak Hills Community Plan. The Plan for Service provided by the Hesperia Recreation and Park District outlines the services to be extended by the District (park and recreation services as well as streetlighting and public landscaping). The Plan provided by the District indicates "parks, open space, trails, streetlights and other required infrastructure will be provided by the developer using agreed upon program between City and developer." The Park District indicates that it will include the areas within existing assessment districts for ongoing maintenance and operations.
12. Comments from landowners and affected local agency have been reviewed and considered by the Commission in making its determinations.
13. The study area can benefit from the availability of municipal-level services from the City of Hesperia and its related special districts.

14. This proposal does not specifically assist the City's ability to achieve its fair share of the regional housing needs since it is primarily anticipated to develop with commercial and industrial land uses. However, the development of the residential portions of the community plan included within the reorganization would assist the City in achieving a portion of its fair share of the Regional Housing needs as determined by the Southern California Association of Governments (SCAG).
15. The County of San Bernardino and the City of Hesperia have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
16. Maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

The City of Hesperia has proposed the annexation of an area substantially surrounded by City of Hesperia and City of Victorville boundaries. The staff supports LAFCO 2952 on the basis that:

- ❑ Urban level development should be included within a municipal service provider or providers. The City of Hesperia and its subsidiary Fire and Water District are the designated urban service providers within this area;
- ❑ The Community Plan developed for this area requires the extension of urban levels of water and sewer service. The extension of these services will rely upon facilities which are within the City and its subsidiary districts, therefore, this project should be included within the boundaries of these agencies to allow for extension of these services and development of the necessary financing mechanisms; and
- ❑ The area has been a part of the sphere of influence of the City and its related special districts since 1994 through approval of LAFCO 2763. That sphere of influence determination included specific conditions of the Commission regarding future annexations within the Oak Hills community awaiting the completion of community plans for the development of the area. These conditions have been addressed and completed by the City of Hesperia.

Therefore, it is staff's recommendation that the Commission approve this proposal with the condition that further protest proceedings be held in abeyance until completion of the negotiations between the City of Hesperia, on behalf of its

subsidiary Hesperia Water District, and the County of San Bernardino, on behalf of County Service Area 70 Improvement Zone J. In implementing this, the staff is recommending that the Commission approve the proposal by taking the actions listed under the recommendation section.

KRM/

Attachments:

- 1 -- Location and area maps of proposal
- 2 -- City Application, Plans for Service, Supplement to City Plan
- 3 -- Oak Hills Community Plan map and excerpt from Text
- 4 -- Draft Agreement between Hesperia Water District and CSA 70 Improvement Zone J for facility transfer
- 5 -- Response from County Special Districts Department related to CSA 70 Improvement Zone J
- 6 -- Response from County Fire District and CDF on Fire Service
- 7 -- Draft LAFCO Resolution No. 2830